

**CALIFORNIA COASTAL COMMISSION**

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March 11, 2019

Amy Dutschke  
Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
Attn: Dan Hall  
2800 Cottage Way  
Sacramento, CA 95825

Re: Trinidad Rancheria Hotel Development Project, CD-0001-19, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Humboldt County

Dear Regional Director Dutschke:

On February 14, 2019, the California Coastal Commission (Commission) received the Bureau of Indian Affairs (BIA) federal consistency determination for the development of a hotel adjacent to the existing Cher-Ae Heights Casino in Trinidad, Humboldt County. The purpose of this letter is to follow up on an informal conversation last week with representatives from the Trinidad Rancheria and formally request that the BIA provide a time extension for Commission action on this consistency determination to enable a public hearing in August of 2019 at the Commission's meeting in the North Coast of California.

Commission staff has two reasons for this request. First, there is considerable local interest in this project, as reported in local print and television news media over the last several months<sup>1</sup>. For locally controversial items, the Commission attempts to schedule public hearings for such matters at a location that facilitates public participation, such as by limiting the distance people have to travel. The Commission will meet in the North Coast region of California in August 2019, with the next nearest Commission meeting location in the intervening months to be in Salinas, almost 400 miles from Trinidad, in April. Commission staff anticipates a greater amount of public comment and interest on the proposed hotel than the recent fee-to-trust action.

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<sup>1</sup> For example, see the Eureka Times –Standard on December 10, 2018 <https://www.times-standard.com/2018/12/10/trinidad-rancheria-to-adjust-size-visual-features-of-hotel-design/>; November 11, 2018 <https://www.times-standard.com/2018/11/11/my-word-get-involved-in-county-planning/>; October 15, 2018 <https://www.times-standard.com/2018/10/15/ets-l-rancheria-1016/>. The proposed project has also been reported on local television; see <https://krctv.com/north-coast-news/eureka-local-news/trinidad-city-council-has-concerns-about-the-trinidad-rancheria-hotel-project>. Additionally, several of the over 100 pages of public comments received on the recent Trinidad Rancheria fee-to-trust action before the Commission made reference to the hotel proposal.

Therefore, staff feels that it is a reasonable and appropriate request to hold the Commission hearing on the BIA consistency determination for the hotel project at its August 2019 meeting.

The second reason for this request is that there appear to be design changes to the proposed hotel that directly relate to the proposed hotel's consistency with the Coastal Act. For example, Commission staff is aware that the height of the hotel is now proposed to be five stories, instead of the original six described in the draft Environmental Assessment (EA) for the project. Hotel water usage, wastewater disposal, and the water supply source are currently being assessed and additional information and analysis is needed to enable us and other interested parties to adequately assess the project's impacts. Issues such as the hotel's effect on public views and its water usage and disposal details raise key Coastal Act issues regarding protection of scenic resources and development<sup>2</sup>. Commission staff also is aware that the Trinidad City Council is hosting the Trinidad Rancheria at its March 13, 2019 public meeting to discuss updated plans for the hotel. Commission staff believes that an August timeframe for a Commission hearing on the BIA consistency determination would enable these details to be further developed (i.e., through continued negotiations with the City of Trinidad regarding water supply) and benefit from additional time for local input.

Finally, we would urge the BIA to consider the comments made by several Commissioners at last week's consistency hearing on the Trinidad Rancheria "Fee-to-Trust" BIA consistency determination (CD-0006-18). Although the Commission concurred with the determination, the Commission expressed very strong concerns over the fact that the hearing was being held in Los Angeles and not in the North Coast. An archived video of the proceedings can be found on our website at:

<http://cal-span.org/unipage/?site=cal-span&owner=CCC&date=2019-03-07>.

Federal Coastal Zone Management Act federal consistency regulations provide for a 60-day deadline for Commission action following receipt of a federal agency's consistency determination (15 CFR 930.41(a)). The federal consistency regulations also state that:

*State agency concurrence shall not be presumed in cases where the State agency, within the 60-day period, requests an extension of time to review the matter. Federal agencies shall approve one request for an extension period of 15 days or less. In considering whether a longer or additional extension period is appropriate, the Federal agency should consider the magnitude and complexity of the information contained in the consistency determination. 15 CFR 930.41(b)*

Without granting of a time extension, Commission staff will have to schedule this item for the April Commission meeting. For the reasons described above, the Commission staff believes that

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<sup>2</sup> The Commission staff's October 18, 2018 comment letter on the draft EA regarding these issues is attached for reference.

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it is appropriate for the BIA to grant an extension of time for this consistency determination to enable the Commission to conduct a public hearing at its August 2019 meeting.

Thank you for your consideration of this request. For further questions please contact Mark Delaplaine at (415) 904-5289.

Sincerely



Alison Dettmer  
Deputy Director, Energy, Ocean Resources,  
and Federal Consistency Division

Attachments:

1. CCC staff letter dated October 18, 2018

Cc: Jacque Hostler-Carmesin, CEO, Trinidad Rancheria  
Dan Berman, City Manager, City of Trinidad  
David Tyson, Trinidad Rancheria Economic Development Corporation  
Joseph James, Chairman, Yurok Tribe

**CALIFORNIA COASTAL COMMISSION**

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October 18, 2018

Amy Dutschke  
Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
Attn: Dan Hall  
2800 Cottage Way  
Sacramento, CA 95825

Re: Coastal Commission Staff Comments, Bureau of Indian Affairs, Environmental Assessment for Trinidad Rancheria Economic Development Corp. Hotel Development Project, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Humboldt County

Dear Ms. Dutschke:

The California Coastal Commission (Commission) staff is commenting on the above-referenced Environmental Assessment (EA) prepared for the Bureau of Indian Affairs (BIA) for the construction of a 100-room hotel adjacent to the existing casino at the Cher-Ae Heights Indian Community of the Trinidad Rancheria (Rancheria). The EA appears to acknowledge the obligation for the BIA to submit a consistency determination to the Commission under the Coastal Zone Management Act (CZMA, Section 307<sup>1</sup>) for the BIA's proposal to issue a loan guarantee for this project. However because the language in the EA was not fully clear on this point and contains a reference to a section of the federal consistency regulations that applies to activities that a federal agency determines will have no effect on any coastal use or resource, we wish to be clear about our position that the BIA's loan guarantee is for an activity that would affect coastal zone resources, thereby triggering the need for submittal by the BIA of a consistency determination to the Commission for its review. The second bullet point under the heading "1.7 Regulatory Requirements and Approvals" (on page 1-6 of the EA) is misleading or incorrect in two respects: the regulation cited, and the standard of review. That passage reads as follows:

- Consultation with the California Coastal Commissions concerning consistency of the Proposed Action with the Local Coastal Plan in accordance with 15 CFR Section 930.35(a) of the National Oceanic and Atmospheric Administration, Federal Consistency Regulations.

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<sup>1</sup> 16 U.S.C. §1456, with implementing regulations at 15 CFR Part 930.

We recommend this language be modified as follows:

- Consultation with the California Coastal Commissions concerning consistency of the Proposed Action with the enforceable policies of the California Coastal Management Program (i.e., the Chapter 3 policies of the Coastal Act, Cal. Pub. Res. Code §§ 30200 et seq.) ~~Local Coastal Plan~~ in accordance with 15 CFR Section 930.365(a) of the National Oceanic and Atmospheric Administration, Federal Consistency Regulations.

These changes are warranted for two reasons:

(1) The Commission's federally approved Coastal Management Program specifies that its enforceable policies are those of Chapter 3 of the Coastal Act. Local Coastal Programs, which are programs that the Commission has certified as being consistent with Chapter 3, can be used as guidance or background, but they are not the formal standard of review for federal consistency reviews.<sup>2</sup>

(2) The regulation cited in the EA (15 CFR § 930.35(a)) is a reference to the section of the federal consistency regulations discussing federal agency negative determinations (i.e., determinations "that there will not be coastal effects"), which is separate from the subsequent section of the regulations (§ 930.36) discussing federal agency consistency determinations. We do not think the BIA intended to comply with the CZMA in this case by following the negative determination process, which, again, is for activities with no effects on coastal resources. We make this statement in part because, once we were able to view EA Appendix D (which was omitted from the copy of the EA we were initially provided, but which we subsequently obtained from the consultant who prepared the EA), that discussion appeared to us to reflect a commitment that BIA will be submitting a consistency determination to the Commission for this activity. If there is any question or ambiguity over this point, or about the previous point regarding the standard of review for any consistency determination, we would request a discussion with your staff at the earliest practicable opportunity.

We also wish to correct what we deem as another incorrect procedural interpretation on page 3-20 of the EA, which states:

*While the project site is located within a Coastal Zone, the proposed Project is excluded from the Coastal Zone Management Plan (CZMA) as it would be developed on land held in trust by the federal government. Therefore, the Proposed Project is not required to be developed in accordance with the Local Coastal Plan or the CZMA. Furthermore, the development of the proposed Hotel is consistent with the adjacent land use of the existing Casino.*

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<sup>2</sup> When the Commission submits LCPs to the Office for Coastal Management for incorporation into the CCMP, its transmittal letters regularly contain the statement that Chapter 3, and not the LCP, remains the legal standard of review for federal consistency purposes.

We are not expressing concerns over the type of land use proposed on the site, or with the statement that the project is not required to comply with the Local Coastal Plan. Nor are we concerned over the statement that the site itself is considered excluded from the coastal zone as land held in trust by the federal government. Nevertheless, none of these obviates the legal requirement under the CZMA for the BIA to submit a consistency determination for an activity that *affects* the coastal zone, as discussed above. Thus, it is the phrase “or the CZMA” that we believe should be changed in this passage, and we recommend the following changes to it below:

*While the project site is located within ~~at the Coastal Zone~~, the ~~site proposed Project~~ is considered excluded from the Coastal Zone Management Plan as that phrase is defined in the CZMA, as it ~~is would be developed~~ on land held in trust by the federal government. Therefore, the Proposed Project is not required to be developed in accordance with the Local Coastal ~~Plan~~ program. However, for the BIA to issue a loan guarantee for this project, the project is required to be consistent to the maximum extent practicable with the enforceable policies of the California Coastal Management Program (CCMP) under ~~or the CZMA~~. Furthermore, ~~The type of land use for development of the proposed Hotel is consistent with the adjacent land use of the existing Casino.~~*

A consistency determination is a finding that a proposed activity is consistent to the maximum extent practicable with the California Coastal Management Program, combined with information necessary to support that conclusion, including an analysis of the activity’s consistency with Chapter 3 of the Coastal Act. We provide these comments in part to assist the BIA in preparation of that document, and we are attaching to this letter additional comments outlining what we would expect to see in any consistency determination that analyzes the hotel project under these Chapter 3 policies.

The Trinidad area’s scenic values are inextricably linked with the reason visitors are attracted to this area. Virtually all the development in the viewshed is limited to one or two stories, with only a very occasional three-story structure. The proposed six-story hotel would tower above and dominate the viewshed over an extremely large area. Thus, our greatest concern over the proposed hotel is its significant visual impact on a portion of the coast particularly prized for its spectacular scenic public views.

We do not believe the EA adequately explains how it arrived at either of the following conclusions (stated in the EA, page 3-27): (1) that the proposed Mitigation 3.13.3 would “allow the proposed Hotel to blend into the scenery ... so that the Proposed Project would not result in any adverse effects to scenic resources;” or (2) that “Incorporation of mitigation measures in Section 3.13.1 would reduce effects to visual resources to less than significant.” Accordingly, we would request that the BIA re-examine these conclusions and either substantiate them, or, alternatively, consider preparation of an Environmental Impact Statement, rather than an EA, for the activity. In addition, it is our understanding from media reports of local hearings that the Rancheria is considering design alternatives for the proposed hotel. If this is accurate, we believe the EA should, at a minimum, examine less visually damaging alternatives to the

proposed design. We would hope that several alternatives are included that involve lower heights and have a less prominent visual appearance.

The EA limited its discussion to only two alternatives, the proposed alternative and the “No Project” alternative, rejecting outright all other “build” alternatives, based on the statement that:

*Other potential alternatives to the Proposed Action, such as a reduction in the size of the area for development or alternative locations, do not meet the definition of “reasonable” under the CEQ’s Regulations for Implementing the NEPA and because the purpose and need would not be met. Due to the proposed location of the Hotel, the Tribe has reduced the size to the minimum size that would provide the economic gains that would make the Hotel profitable and thereby viable. Accordingly, a small area for the Proposed Project is not evaluated within this ... EA.*

We understand the Rancheria’s desire for the hotel to be located very near, if not adjacent to, the existing Casino. This goal appears reasonable on its face. However the EA does not adequately explain its statement that no land is available on the Rancheria’s existing holdings that could be used, for example, to lessen the height of the hotel by expanding its footprint, or dividing the hotel into multiple, lower story structures, “without disrupting future plans essential to the Tribe’s growth and facilities.” The EA should, at a minimum, substantiate this claim. It would also be helpful if the EA would explain why building a hotel with any fewer than 100 rooms would not be feasible for the Rancheria.

Aside from its sheer mass, we have several additional concerns with respect to the visual impacts of the project. Given the extensive degree of glass windows facing public areas, we do not understand how glare can be minimized during the daytime, and the issue is likely of even greater concern during the nighttime, when lighting from hotel room windows could be highly visible over a large area. We understand the external lighting can be minimized by directional controls, but it is less clear how six stories of hotel room lighting on the seaward facing sides of the hotel can be minimized.

Our final concern with respect to visual impacts stems from the relationship between the hotel itself and related mitigation measures proposed to address traffic impacts. The EA states that Mitigation Measure 3.7.3 will be to “Construct the Cher-Ae Lane interchange off of HWY 101 to provide direct access to the Rancheria and Westhaven Drive.” We are concerned by the fact that the environmental analyses that may be forthcoming in a separate, Caltrans, CEQA review will not be available in the timeframe appropriate for review of the proposed hotel. Without being able to understand those impacts it is difficult to fully understand the full visual effects from the proposed project.

The remainder of our comments will address other, non-visually-related issues potentially raised by the proposed hotel.

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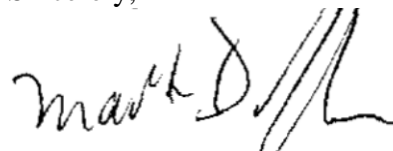
The EA states (p. 3-22), that adequate water supply to serve the hotel is available based on the capacity of the City's water system and commitments between the Rancheria and the City. We would request that the EA include written confirmation from the City documenting the adequacy of availability of such water supply.

EA Appendix A, which examines leachfield capacity for the proposed hotel, indicates that the existing leachfield will need to be expanded, and that while several areas may provide sufficient expansion capacity, they have not been tested to the degree assuring that capacity would be available. (Northstar Design Solutions memo, September 29, 2016, p. 3: Dispersal System Capacity). The EA should, at a minimum, spell out the process and timeline that will be used to assure adequate leachfield capacity is available, as well as identify any public agencies that will be involved in the review of any leachfield expansion.

The EA indicates an active landslide is located on the proposed hotel site, and that it trends southwest towards Scenic Drive. The EA further indicates that the landslide is shallow and that hazards can be remediated with standard geologic measures. Appendix B of the EA provides additional geologic analysis supporting the EA's conclusions in this regard. This appendix lists six alternative means for stabilizing the site, and recommends implementing one of them (cast-in-drilled hole (CIDH) pile support). The appendix also recommends several other measures and construction techniques, and further indicates some level of additional analysis will need to be performed, along with a final geotechnical design report, prior to construction. We request that the EA include a projection or timetable for when these additional analyses will become available, as well as assurances that they will be implemented.

In conclusion, we appreciate this opportunity to comment, and we look forward to working with the BIA and the Rancheria on this locally and regionally important project. If you have any questions about these comments, or about preparation of a consistency determination, please feel free to contact me at (415) 904-5289, or by email at [mdelaplaine@coastal.ca.gov](mailto:mdelaplaine@coastal.ca.gov). Thank you for your attention to this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Delaplaine", with a stylized flourish at the end.

MARK DELAPLAINE  
Manager, Energy, Ocean Resources, and  
Federal Consistency Division

Attachments:

1. CCC Staff Guidance for preparation of a Consistency Determination



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cc: CCC Arcata Office  
Jacque Hostler-Carmesin, Chief Executive Officer, Trinidad Rancheria  
Garth Sundberg, Tribal Chairman, Trinidad Rancheria  
David W. Tyson, Trinidad Rancheria Economic Development Corporation  
Caltrans District 1 (Kim Floyd)  
City of Trinidad (Dan Berman)  
County of Humboldt (Planning and Building Dept., and Board of Supervisors)  
HCAOG (Humboldt County Association Council of Governments)(Marcella Clem)

## **Attachment 1**

### **Commission Staff Consistency Determination Guidance**

The Coastal Act places special emphasis on the protection of scenic coastal public views and on special visitor destinations prized for their unique characteristics, and the BIA's consistency determination should analyze the following Coastal Act policies in its analysis of consistency with the enforceable policies of the CCMP.

#### **Section 30251**

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

#### **Section 30253(e)**

*New development shall do all of the following:*

...

*(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

This analysis should include provide visual renderings showing the appearance of the proposed hotel from important public view vantage points. We would recommend, at a minimum, visual simulations from the following locations (which we will also depict, using the numbers from the list below, on an attached map (Exhibit 1)):

1. The public trail on the east side of Trinidad Head
2. The seaward end of Trinidad Pier
3. The parking lot at Trinidad Harbor
4. The intersection of Trinity St. and Edwards St. in Trinidad

5. Scenic Drive
6. The southern point on Baker Beach, located immediately north of Sotsin Pt.
7. Luffenholtz Beach County Park
8. The Vista Point west of Highway 101 at the McKinleyville airport.

Guidance from Humboldt County's certified Local Coastal Program, Trinidad Area Plan (TAP), can be used to support the visual analysis. The TAP calls out this area as "indisputably exceptional" (TAP Page 3-37, Section 2.40 – Visual Resource Protection), and specifies that any development along Scenic Drive under the County's permitting jurisdiction would need to be, as required above under the last requirement of Coastal Act Section 30251, "subordinate to the character of its setting." Re-emphasizing this policy, TAP Page 3-39, Section 3.40.B.3 (Coastal Scenic Areas), states "In Coastal Scenic Areas as designated on the Area Plan Maps, and applied to portions of parcels immediately adjacent to and visible from the designated area, it is the intent of these regulations that all development be subordinate to the character of the designated area, and to the scenic use and enjoyment of public recreational lands within these areas."

The TAP policies would also: (1) prohibit off-premise signs (billboards) that are at all visible from the public roadway; and (2) set building height limitations of a maximum of 30 ft. for any structures along Scenic Drive<sup>3</sup>.

While these TAP policies do not provide the legal standard of review for any consistency determination, they nevertheless underscore the spectacularly valuable visual resources in the area and support the Coastal Act requirement that the proposed hotel would need to not only minimize and protect scenic views, and be compatible with the character of the surrounding area, but also to be subordinate to the character of its setting.

We would request that the visual analysis also examine several additional concerns with respect to the visual impacts of the project. As we note in the main body of this letter, the consistency determination should explain glare from extensive glass windows will be minimized during the daytime, and minimized during the nighttime, when lighting from hotel room windows could be highly visible over a large area. In reviewing plans for a Casino near Crescent City for the Elk Valley Rancheria (also on Trust lands), we requested, and received, simulated nighttime views from public vantage points as part of our federal consistency review for that activity. We would be happy to provide you a copy of those simulations if you so request, and we would request

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<sup>3</sup> The actual language of the TAP (Page 3-40, Section 3.40.B.3.c.(2)) states this as follows: "The highest point of a structure shall not exceed 30 feet vertically measured from the highest point of the foundation, nor 40 feet from the lowest point of the foundation."

similar simulations for the proposed project to support the visual analysis in the consistency determination.

The visual analysis should also examine the visual impacts which would stem from the related mitigation measures proposed to address traffic impacts. The EA states that Mitigation Measure 3.7.3 will be to “Construct the Cher-Ae Lane interchange off of HWY 101 to provide direct access to the Rancheria and Westhaven Drive.” The consistency determination should acknowledge that this portion of Highway 101 is designated as a highly scenic area, and it should examine the visual effect from the grading, paving, and tree removal that would likely be associated with this interchange. It should analyze related visual impacts from any advertising signs contemplated for the hotel that would be placed on Highway 101, along Scenic Drive, or other public streets in the area.

We would request that you use for guidance for your analysis the following County TAP policies concerning highway improvements in this scenic area (TAP Page 3-19, Section 3.23.B.3):

### *3. Public Roadway Projects*

*Public roadway improvement projects shall not, either individually or cumulatively, degrade environmentally sensitive habitats or coastal scenic areas. Improvements (beyond repair and maintenance) shall be consistent with Section 3.41 and 3.42 and shall be limited to the following:*

- a. Reconstruction and restoration of existing roadways, including bridge restoration and replacement, highway planting, construction of protective works such as rock slope protection and slope corrections, reconstruction of roadways following damage by storms and other disasters, and improvement of roadside rests.*
- b. Operational improvements, such as traffic signals, guard rails and curve corrections.*
- c. Roadside enhancements, such as construction or improvement of roadside rests and vista points consistent with Section 3.40, and removal of roadside signs consistent with Section 3.40 B4.*
- d. Minor improvement projects, such as modifying encroachments or ramps, construction turnouts, and channelized intersections.*
- e. Except in coastal scenic areas, climbing and passing lanes.*
- f. Expansion of substandard roadway shoulders.*
- g. Construction of bikeways.*

Interchange improvements may also raise other Coastal Act concerns, and should be analyzed to the degree possible. For example, in reviewing Caltrans' Project Study Report – Project Development Support (December 2017) for the Hwy. 101 interchange, it appears that all of the non-no-project alternatives for such an intersection would have “medium” to “extremely high” environmental impacts (pages 11-12, Table 5: Summary of Project Alternatives). These impacts include visual, sensitive habitat (including wetland impacts), and geologic stability concerns. Accordingly, we believe the consistency determination should analyze the effects of any likely-to-be-proposed interchange alternatives for consistency with the habitat (Section 30240), wetlands (Section 30233), geologic hazards (Section 30253), and public works (Sections 30250 and 30254) policies of the Coastal Act. The above County TAP policies should also be looked at for guidance in these analyses. Exhibit 2 to this attachment contains the applicable Coastal Act policies not otherwise quoted in this Attachment.

The consistency determination should also analyze the project for adequacy of water supply and leachfield capacity, under Section 30250(a) of the Coastal Act, which provides:

*New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. ...*

According to the EA (p. 3-22), adequate water supply to serve the hotel is available based on the capacity of the City's water system and commitments between the Rancheria and the City. If this is indeed the case, we would request that you submit written documentation from the City attesting to the adequacy of availability of such water supply.

EA Appendix A, which examines leachfield capacity for the proposed hotel, indicates that the existing leachfield will need to be expanded, and that while several areas may provide sufficient expansion capacity, they have not been tested to the degree assuring that capacity would be available. (Northstar Design Solutions memo, September 29, 2016, p. 3: Dispersal System Capacity). The consistency determination should spell out the process and timeline that will be used to assure adequate leachfield capacity is available, as well as identify any public agencies that will be involved in the review of any leachfield expansion.

The EA indicates an active landslide is located on the proposed hotel site, and which trends southwest towards Scenic Drive. The EA further indicates the landslide is shallow and that hazards can be remediated with standard geologic measures. Appendix B of the EA provides additional geologic analysis supporting the EA's conclusions. This appendix lists six alternative means for stabilizing the site, and recommends implementing one of them (cast-in-drilled hole (CIDH) pile support). The appendix also recommends several other measures and construction techniques, and further indicates some level of additional analysis will need to be performed, along with a final geotechnical design report, prior to construction. The BIA's consistency

determination should include an explanation of how the geologic constraints will be addressed and remediated, as part of its analysis of the project's for consistency with the geologic hazards policy of the Coastal Act (Section 30253 (a) and (b)), which provides:

**Section 30253(a) and (b)**

*New development shall do all of the following:*

*(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

*(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Finally, we would like to make you aware of policy guidance the Commission has been involved in concerning the Coastal Act's low and moderate cost visitor-serving policy (Section 30213) and room rates for hotels. This effort has been focused more in southern California than in northern California, and we provide this link for this in-progress policy guidance.

<https://documents.coastal.ca.gov/reports/2016/11/th6-11-2016.pdf>

We believe at a minimum, discussion with the Rancheria and/or the BIA may be warranted, concerning how the proposed hotel fit on the spectrum of low- to high-cost visitor facilities. If this issue is addressed in the consistency determination, it should be based primarily on Section 30213 of the Coastal Act, which provides:

**Section 30213**

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

*The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities*

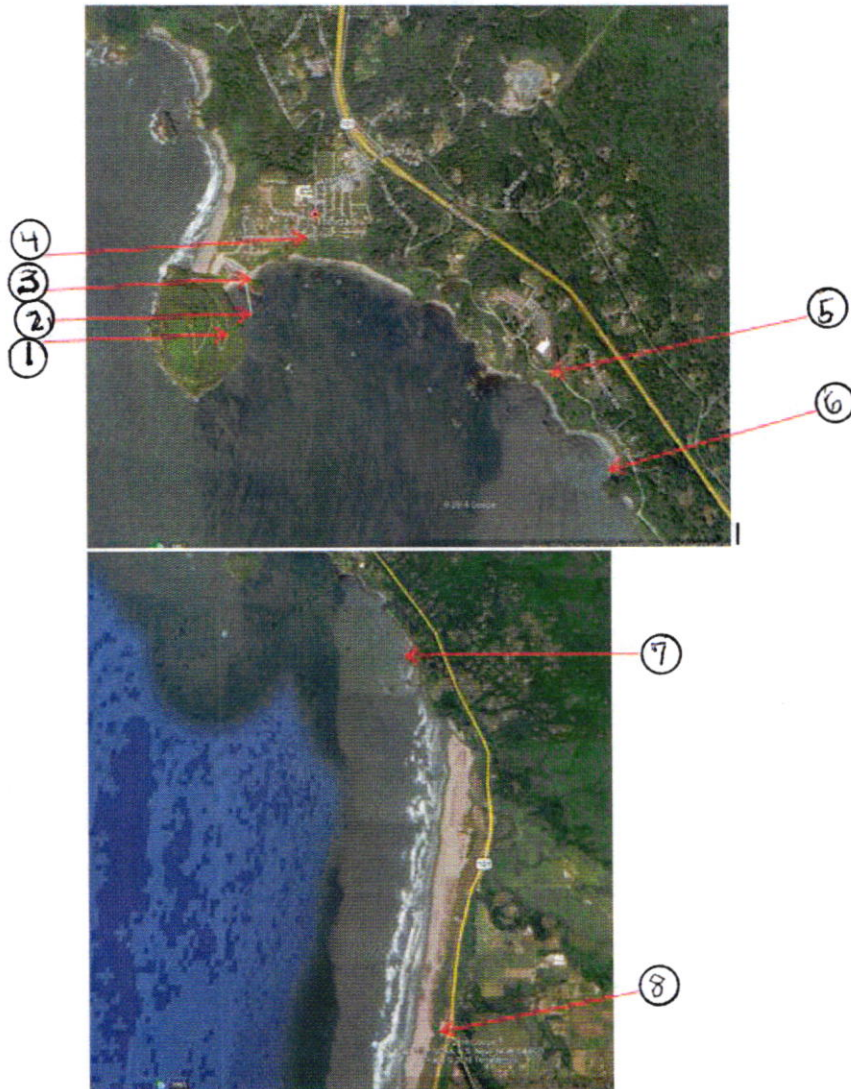
(Additional Coastal Act policies may also be applicable; those are listed on page 6 of the document at the above link.)

(Additional Coastal Act policies may also be applicable; those are listed on page 6 of the document at the above link.)

Exhibits:

1. Recommended Coastal Viewpoints
2. Additional Coastal Act Policies

**Exhibit 1: Recommended Coastal Viewpoints**



## **Exhibit 2: Additional Coastal Act policies**

### **Section 30233(a)**

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(6) Restoration purposes.

(7) Nature study, aquaculture, or similar resource dependent activities.

### **Section 30240**

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

### **Section 30254**

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries



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vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.